

REMARKS

Claims 1, 3-10, 12-16, and 18-20 remain pending. Claims 2, 11 and 17 have been cancelled. Claims 1, 3-10, 12-16, and 18-20 have been amended. Support for the amended claims can be found in the specification, for example, at page 6, lines 1-5 and lines 6-11, and in the original claims as filed. No new matter has been added.

**I. CLAIM REJECTIONS - 35 USC § 101**

At page 6, the Office Action rejects claim 17 and 18 under 35 U.S.C. § 101 as being improper process claims. Applicants respectfully traverse the rejection.

Claim 17 is cancelled. Currently amended claim 18 is directed to a medicament for the treatment of tumors, comprising a staurosporine derivative of general formula (I). Thus, claim 18 is directed to statutory subject matter and satisfies the requirements of 35 U.S.C. § 101. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

**II. CLAIM REJECTIONS - 35 USC § 112**

At pages 2 - 6, the Office Action rejects claims 1-20 under 35 U.S.C. § 112, second paragraph, as indefinite. Applicants respectfully traverse the rejection.

Currently amended claims 1, 3-10, 12-16, and 18-20 address each of the issues pointed out in the Office Action. Claims 2, 11 and 17 have been cancelled. Each of claims 1, 3-10, 12-16, and 18-20 clearly and distinctly claims the intended subject matter, and each claim satisfies the requirements of 35 U.S.C. § 112, second paragraph. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

### **III. CLAIM REJECTIONS - 35 USC § 102**

At page 6, the Office Action rejects claims 1, 3-5, 10, 15, 17, 19 and 20 under 35 U.S.C. § 102(b) as anticipated by Morris et al. (US 5,770,421) in light of Hanks et al. (Science, 241:42, 1988). Applicants respectfully traverse the rejection.

The Office Action acknowledges that Morris fails to teach or suggest the method according to dependent claim 2. Claim 2 limits the method of claim 1 to feature a peptide substrate of SEQ ID NO: 1. Morris fails to teach or suggest the peptide of SEQ ID NO: 1, or any kinase detection method utilizing this peptide. Currently amended claim 1 incorporates the subject matter of claim 2 and is now directed in part to a method for detecting anaplastic lymphoma kinase (ALK) activity comprising incubating the ALK protein or a functional derivative thereof with a peptide substrate comprising SEQ ID NO: 1. Morris fails to teach or suggest this method.

Similarly, currently amended claims 10, 15 and 19 feature only the peptide of SEQ ID NO: 1. Thus, Morris, in light of Hanks, fails to teach or suggest, and fails to anticipate, the method of claim 1 and claims 3-5 dependent thereon, the method of claim 10, the peptide of claim 15, and the kit of claim 19 and claim 20 dependent thereon. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

At page 7, the Office Action rejects claims 1, 3-5, 10-12, 15, 17, 19 and 20 under 35 U.S.C. § 102(b) as anticipated by Turturro et al. (Clin. Can. Res. 8: 240, 2002) in light of Morris and Hanks. Applicants respectfully traverse the rejection.

Similar to the remarks stated above, the Office Action acknowledges that Turturro fails to teach or suggest the method according to dependent claim 2. Claim 2 limits the method of claim 1 to feature a peptide substrate of SEQ ID NO: 1. Turturro fails to teach or suggest the peptide of SEQ ID NO: 1, or any kinase detection method utilizing this peptide. Currently amended claim 1 incorporates the subject matter of claim 2 and is now directed in part to a method for detecting anaplastic lymphoma kinase (ALK) activity comprising incubating the ALK protein or a functional derivative thereof with a peptide substrate comprising SEQ ID NO: 1. Turturro fails to teach or suggest this method.

Furthermore, currently amended claims 10, 15 and 19 feature only the peptide of SEQ ID NO: 1. Thus, Turturro, in light of Morris and Hanks, fails to teach or suggest, and fails

to anticipate, the method of claim 1 and claims 3-5 dependent thereon, the method of claim 10 and claim 12 dependent thereon, the peptide of claim 15, and the kit of claim 19 and claim 20 dependent thereon. Claims 11 and 17 are cancelled. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

**IV. CLAIM REJECTIONS – 35 USC § 103**

At page 8, the Office Action rejects claims 1, 3-12, 15 and 17-20 under 35 U.S.C. § 103(a) as obvious over the combined teachings of Turturro, Morris, Hanks, Hirth et al. (US 5,763,198), Strulovici (US 5,759,787), and Schraag et al. (Anal. Biochem. 211: 233, 1993). Applicants respectfully traverse the rejections.

As stated in the remarks above, the Office Action acknowledges that both Morris and Turturro fail to teach or suggest the method according to dependent claim 2. Claim 2 limits the method of claim 1 to feature a peptide substrate of SEQ ID NO: 1. Both Morris and Turturro fail to teach or suggest the peptide of SEQ ID NO: 1, or any kinase detection method utilizing this peptide. Currently amended claim 1 incorporates the subject matter of claim 2 and is now directed in part to a method for detecting anaplastic lymphoma kinase (ALK) activity comprising incubating the ALK protein or a functional derivative thereof with a peptide substrate comprising SEQ ID NO: 1. The additional

cited references, Hanks, Hirth, Strulovici, and Schraag, fail to remedy the deficiencies of Morris and Turturro.

Currently amended claims 7, 10, 15 and 19 also feature only the peptide of SEQ ID NO: 1. Thus, the combined teachings of Morris, Turturro, Hanks, Hirth, Strulovici, and Schraag, fails to teach or suggest, and would not have rendered obvious, the method of claim 1 and claims 3-9 dependent thereon, the method of claim 10 and claim 12 dependent thereon, the peptide of claim 15, the medicament of claim 18, and the kit of claim 19 and claim 20 dependent thereon. Claims 11 and 17 are cancelled. Accordingly, Applicants request reconsideration and withdrawal of the rejection.

#### **V. CONCLUSION**

Entry of the above amendments is earnestly solicited. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Should there be any matters that need to be resolved in the present application, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

YOUNG & THOMPSON

/H. James Voeller/

H. James Voeller, Reg. No. 48,015  
Customer No. 00466  
209 Madison Street, Suite 500  
Alexandria, VA 22314  
Telephone (703) 521-2297  
Telefax (703) 685-0573

HJV/lad